

SECTION 9: RELIEF PROCEDURES

SECTION 9.01 PETITION FOR WAIVERS

- (a) **Purpose.** The purpose of a petition for a Waiver to a particular standard or requirement of this Ordinance, as such are applicable to Plats or Construction Plans for a project, is to determine whether or not such particular standard or requirement should be applied to an application or project.
- (b) **Definitions.** Waivers shall be classified as "minor" or "major", as defined in Section 10.02 (Definitions) of this Ordinance.
- (c) **Decision-Maker.**
 - (1) Minor Waiver. A Minor Waiver is acted upon by the Director of Development Services or the Director of Engineering Services, as specified in Table 9.01-1.
 - a. Appeal. An appeal to a decision on a Minor Waiver by the Director of Development Services or the Director of Engineering Services (as applicable) may be considered by the Commission. If further appeal is made, the City Council shall then act on such an appeal. (See Section 9.01(j)).
 - (2) Major Waiver. A Major Waiver is acted upon by the Commission.
 - a. Appeal. An appeal to a decision on a Major Waiver by the Commission may be considered by the City Council (see Section 9.01(j)).
- (d) **Applicability.**
 - (1) An applicant may request a Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat application has been submitted for approval, to a Final Plat or a Replat. A Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one Waiver petition if there are several standards or requirements at issue.
 - (2) A petition for a Waiver shall not be accepted in lieu of a proportionality appeal (Section 9.02) or a vested rights petition (Section 9.03). If there is a question as to whether a proportionality appeal or vested rights petition is required instead of a petition for a Waiver, such determination shall be made by the Director of Development Services.
- (e) **Submission Procedures.**
 - (1) A request for a Waiver shall be submitted in writing by the applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable. No Waiver may be considered or granted unless the applicant has made such written request.



- (2) The applicant's request shall state the grounds for the Waiver request and all of the facts relied upon by the applicant. Failure to do so, will result in denial of the application unless the applicant submits a Waiver of Right to 30-Day Action in accordance with Section 3.03(e).

(f) **Criteria.**

- (1) A Waiver to regulations within this Ordinance may be approved only when, in the decision-maker's opinion, undue hardship will result from strict compliance to the regulations.
- (2) The decision-maker shall take into account the following factors:
 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - b. The number of persons who will reside or work in the proposed development; and
 - c. The effect such Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- (3) No Waiver shall be granted unless the decision-maker finds:
 - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his or her land; and
 - b. That the Waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - c. That the granting of the Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
- (4) A Waiver may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
- (5) No Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
- (6) The decision-maker shall not authorize a Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.
- (7) Any falsification of information by the applicant shall be cause for the Waiver request to be denied. If the Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Waiver, and shall be grounds for reconsideration of the Waiver request.

- (g) **Burden of Proof.** The applicant bears the burden of proof to demonstrate that the requirement for which a Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.
- (h) **Decision.** The decision-maker shall consider the Waiver petition and, based upon the criteria set forth in Section 9.01(f), shall take one of the following actions:
 - (1) Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
 - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Ordinance.
- (i) **Notification of Decision on Petition.** The applicant shall be notified of the decision on the Waiver by the applicable decision-maker (e.g., the Director of Development Services, Director of Engineering Services, Commission or City Council, as applicable), within fourteen (14) calendar days following the decision.
- (j) **Appeal.**
 - (1) Initiation of an Appeal. The applicant or four (4) voting members of the Commission may appeal a waiver decision of any Director, as allowed within the Subdivision Ordinance. The written request to appeal shall be submitted to the Director of Development Services within fourteen (14) calendar days following the denial decision. (See Table 9.01-1)
 - (2) Appeal to Planning & Zoning Commission. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Waiver. The Commission may affirm, modify or reverse the previous decision by simple majority vote.
 - (3) Appeal to City Council. The applicant, the Director of Development Services or four (4) voting members of City Council may appeal the Commission's decision by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the Commission's decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the Commission's decision by simple majority vote. The decision of the City Council is final.
- (k) **Effect of Approval.** Following the granting of a Waiver, the applicant may submit or continue the processing of a Plat or Construction Plans, as applicable. The Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those applications. Extension of those applications shall also result in extension of the Waiver.



SECTION 9.02 PROPORTIONALITY APPEAL

(a) Purpose and Applicability.

- (1) **Purpose.** The purpose of a petition for relief from a dedication or construction requirement is to ensure that the imposition of uniform dedication and construction standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's roadways and public facilities systems.
- (2) **Applicability.** A petition for relief under this Section 9.02 may be filed by the applicant to contest any requirement to dedicate land or to construct public improvements as required by this Ordinance or attached as a condition to approval of the application. A petition under this Section 9.02 shall not be used to waive standards on grounds applicable to any Waiver application, as outlined in Section 9.01.

(b) Petition Requirements.

- (1) **Form of Petition.** The petition for relief from a dedication or construction requirement shall allege that application of the standard relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, as the case may be, or does not reasonably benefit the proposed development.
- (2) **Study Required.** The applicant shall provide a study in support of the petition for relief that includes the following information:
 - a. Total capacity of the City's water, wastewater, storm drainage, parks or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
 - b. Total capacity to be supplied to the City's water, wastewater, storm drainage, parks or roadway system by the proposed dedication of an interest in land or construction of public improvements. If the application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of public improvements.
 - c. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of public improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
 - d. The effect of any City participation in the costs of oversizing the public improvement to be constructed in accordance with the City's requirements.

- e. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
 - (3) Time for Filing Petition and Study. A petition for relief from a dedication or construction requirement shall be filed with the Director of Engineering Services within fourteen (14) calendar days following the Commission's decision to conditionally approve or deny an application for approval of an application. The study in support of the petition shall be filed within sixty (60) calendar days following the initial decision, unless the applicant (petitioner for relief) seeks an extension in writing. The Director of Engineering Services may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days for good cause shown.
 - (4) Land in Extraterritorial Jurisdiction (ETJ). Where land or facilities to be dedicated are located in the ETJ of the City and are to be dedicated to Collin or Denton County, a petition for relief or study in support of the petition shall be accepted as complete for review by the Director of Engineering Services only when such petition or study is accompanied by verification that a copy has been delivered to and accepted by Collin or Denton County, as applicable.
- (c) **Processing of Petitions and Decision.**
- (1) Responsible Official. The Director of Engineering Services shall be the responsible official for a petition for relief from a dedication or construction requirement (see Section 2.04(a)(9)). Where the petition is for relief from dedication of rights-of-way or construction of a facility in the City's ETJ that is to be dedicated to Collin or Denton County, the Director of Engineering Services shall coordinate a recommendation with the appropriate County official responsible for reviewing plats.
 - (2) Evaluation & Recommendation.
 - a. The Director of Engineering Services shall evaluate the petition and supporting study and shall make a recommendation to the Commission for their consideration and recommendation to the City Council.
 - b. In evaluating the petition and study, the Director of Engineering Services shall take into account the maximum amount of any impact fees to be charged against the development for the type of public improvement that is the subject of the petition, or similar developments on the City's water, wastewater, roadway, storm drainage or parks systems. The Director of Engineering Services may utilize any reasonable methodology in evaluating the applicant's study, including impact fee methodologies.
 - c. In order to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the City may participate in the costs of public improvements, credit or offset the obligations against payment of impact fees, or relieve the property owner any of the obligations in response to a petition for relief from a dedication or construction requirement pursuant to Section 9.02.



- (3) Decision-Maker. The Commission shall decide the petition for relief from a dedication or construction requirement.
- (4) Public Hearing. The Commission shall conduct a public hearing within sixty (60) calendar days after the study supporting the petition (refer to Section 9.02(b)) is filed with the Director of Engineering Services.
- (5) Burden of Proof. The applicant bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the applicant.
- (6) Decision. The Commission shall consider the petition for relief from a dedication or construction requirement based upon the following criteria:
 - a. The Commission shall determine whether the application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, and whether the application of the standard or condition reasonably benefits the development.
 - b. In making such determination, the Commission shall consider the evidence submitted by the applicant, the report and recommendation of the Director of Engineering Services and, where the property is located within the City's ETJ, any recommendations from Collin or Denton County, as applicable.
- (7) Action. Based on the criteria in Section 9.02(c)(6), the Commission shall take one of the following actions:
 - a. Deny the petition for relief, and impose the dedication or construction requirement as required by this Ordinance; or
 - b. Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
 - c. Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the public improvement under standard participation policies.
- (8) Notification of Decision on Petition. The applicant shall be notified of the decision on the petition for relief by the Director of Engineering Services within fourteen (14) calendar days following the Commission's decision.

(d) Appeal of the Decision on a Petition for Relief.

- (1) Initiation of an Appeal. The applicant or no less than four (4) voting members of City Council may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
 - a. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.

- b. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
 - c. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant.
 - d. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
- (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.
- (e) **Expiration or Failure to File Application.** Where an application was denied based upon the imposition of the standard requiring dedication of land or construction of a required public improvement and the Commission's decision (or decision on appeal) is to grant some level of relief, the applicant shall resubmit the application within sixty (60) calendar days following the date the petition for relief is granted, in whole or in part, showing conformity with the Commission's decision (or decision on appeal) on the petition.
 - (1) If such re-submittal of the application is not made within the sixty-day (60-day) period, the relief granted by the Commission on the petition shall expire.
 - (2) If the re-submittal of the application is modified in any other way, a new petition for relief may be required by the Director of Engineering Services.
 - (3) If the application for which relief was granted is denied on other grounds, a new petition for relief may be required by the Director of Engineering Services.
- (f) **Effect of Relief.**
 - (1) The Director of Engineering Services may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the Commission on the petition.
 - (2) The relief granted on the petition shall remain in effect for the period the application is in effect, and shall expire upon expiration of the plat or related application.

SECTION 9.03 VESTED RIGHTS PETITION

- (a) **Purpose.** The purpose of a vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.
- (b) **Applicability.**
- (1) A vested rights petition may be submitted for any application authorized under this Ordinance.
 - (2) A vested rights petition cannot be submitted by an applicant along with submission of a request for a text amendment to this Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.
- (c) **Submission.** A vested rights petition shall be submitted to and officially filed with the City's responsible official (see Section 9.03(g)) in accordance with the Texas Local Government Code, Chapter 245 or successor statute. Submission of a vested rights petition shall be deemed as an automatic waiver of the applicant's right, and the City's obligation, to process and act upon applications as required by State law (Chapter 212 of the Texas Local Government Code), and as provided in Section 3.03(e) of this Ordinance. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the vested rights petition.
- (d) **Effect.** If a properly submitted vested rights petition is approved in whole or in part, the responsible official shall then process the original application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or shall extend the validity of the original application that would otherwise be subject to expiration pursuant to this Ordinance.
- (e) **Form of Petition.** The vested rights petition shall allege in writing that the applicant has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
- (1) A written vested rights petition form, with a notarized original signature of the property's owner;
 - (2) A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
 - (3) A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - (4) The official filing date of the application;
 - (5) The date the subdivision for which the application was submitted was commenced;

- (6) Identification of all standards otherwise applicable to the application from which relief is sought;
 - (7) Identification of any current standards which applicant agrees can be applied to the application at issue;
 - (8) A narrative description of how the application of current standards affect proposed landscaping, open space or park dedication, shown on the application for which the petition is filed;
 - (9) A copy of any prior vested rights determination involving the same land; and
 - (10) Whenever the applicant alleges that an application subject to expiration should not be terminated, a description of the events constituting progress toward completion of the subdivision for which the application was approved. The applicant shall reimburse the City for all related legal costs for review of the vested rights petition. This reimbursement shall be paid in full prior to any decision on the petition.
- (f) **Time for Filing Petition.** A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any already approved application when filed pursuant to Section 9.03(m), *Dormant Projects*. Where more than one application is authorized to be filed simultaneously by this Ordinance, the petition may be filed simultaneously for each application.
- (g) **Processing of and Decision on Petition.**
- (1) Responsible Official. The responsible official for a vested rights petition is the same as that for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 3.07 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The City Attorney shall also be notified of the vested rights petition following its filing and acceptance for processing. The applicant shall reimburse the City for all related legal costs for review of a vested rights petition. This reimbursement shall be paid in full prior to filing of the Final Plat.
 - (2) Action and/or Decision by Responsible Official.
 - a. If the responsible official is the decision-maker on the original related application, that official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and recommendation.
 - b. The applicant shall be notified of the decision within fourteen (14) calendar days following the date the vested rights petition was filed at the City.
 - c. The responsible official may defer making a decision on the vested rights petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in Section 9.03(g)(3).



- (3) Decision by Planning & Zoning Commission. If the original related application is to be decided by the Commission, or if the responsible official defers making a decision on a vested rights petition pursuant to Section 9.03(g)(2)c., the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the Commission. The Commission shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed at the City. The Commission's decision on a vested rights petition shall be upon a simple majority vote of the full Commission's voting members.
- (4) Decision by City Council. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to Section 9.03(m), *Dormant Projects*, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the City Council. The Council shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed at the City. The City Council's decision on a vested rights petition shall be upon a simple majority vote of the full Council's voting members, and shall be final.
- (5) Appeal of Decision on Petition. The applicant may appeal, to City Council, the responsible official's or Commission's decision on the vested rights petition by submitting written notice of appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the Council's voting members, and shall be final.
- (6) Effect on Related Applications. A final decision on the vested rights petition or appeal under this Section must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application. Upon such final resolution and decision on a vested rights petition, the responsible official shall commence processing, review and consideration for the related application as provided in this Ordinance.

(h) Criteria for Approval.

- (1) Factors. The decision-maker shall decide the vested rights petition based upon the following factors:
 - a. The nature and extent of prior applications filed for the land subject to the petition;
 - b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - c. Whether any prior approved applications for the property have expired or have been terminated in accordance with State law or local ordinances;
 - d. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
 - e. Whether any statutory exception applies to the standards in the current Subdivision Ordinance from which the applicant seeks relief;

- f. Whether any prior approved applications relied upon by the applicant have expired;
 - g. For petitions filed pursuant to Section 3.07 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, whether any of the events in Section 3.07 have occurred;
 - h. Any other applicable provisions outlined in Chapter 245 or Section 43.002 of the Texas Local Government Code, or successor statutes.
- (2) Conditions. If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this Ordinance, the decision-maker may condition any relief granted on the vested rights petition on the approval of the pending application.

(i) **Action and Record of Action on the Vested Rights Petition.**

- (1) Action. The decision-maker may take any of the following actions:
- a. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards; or
 - b. Grant the relief requested in the petition, and direct that the related application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - c. Grant the relief requested in part, and direct that certain identified current standards be applied to the related application, while standards contained in identified prior regulations also shall be applied; or
 - d. For petitions filed pursuant to Section 3.07 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, specify the expiration date or the conditions of expiration for the related application(s).
- (2) Record. The responsible official's report and the decision on the vested rights petition shall be recorded in writing in an order identifying the following:
- a. The nature of the relief granted, if any;
 - b. The related application(s) upon which relief is premised under the petition;
 - c. Current standards which shall apply to the related application for which relief is sought, if applicable;
 - d. Prior standards which shall apply to the related application for which relief is sought, including any procedural standards, if applicable;
 - e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
 - f. To the extent feasible, subsequent related applications that are subject to the same relief granted on the petition; and
 - g. For petitions filed pursuant to Section 3.07 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, the date of expiration of the related application.



(j) Related Application Following Final Decision on the Vested Rights Petition.

- (1) Following the City's final decision on the vested rights petition, the applicant shall, if necessary, revise the related application such that it conforms to the City's decision on the vested rights petition.
- (2) The decision-maker on the related application shall review and consider the revised application in accordance with the procedures for deciding that type of application, as outlined in this Ordinance, and in conformity with any relief granted.
- (3) If the relief granted on the vested rights petition is consistent with the related application on file, no revisions shall be necessary, and the related application shall be deemed officially filed at the time of the final decision on the vested rights petition.

(k) Appeal of the Decision on a Vested Rights Petition.

- (1) Initiation of an Appeal. The applicant or no less than four (4) voting members of City Council may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
 - a. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.
 - b. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
 - c. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant.
 - d. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
- (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.

(l) **Expiration & Extension.**

- (1) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
 - a. The applicant fails to submit a revised application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the vested rights petition;
 - b. The application for which relief was granted on the vested rights petition is denied; or
 - c. The application for which relief was granted on the vested rights petition expires.
- (2) Extension. Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on the vested rights petition for the same time period.

(m) **Dormant Projects.**

- (1) Definitions. For purposes of this Section 9.03(m) only:
 - a. Initial permit means any of the following types of approvals granted under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance: Preliminary Plat, Construction Plans, Construction Release, Waivers to any requirement in this Subdivision Ordinance (per Section 9.01), or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
 - b. Final permit means a Final Plat approved under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance.
- (2) Expiration of Permits. Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this Subdivision Ordinance shall expire on the effective date of this Subdivision Ordinance.
- (3) Reinstatement. The property owner of the land subject to an initial permit that expires under Section 9.03(m)(2) may petition the Commission to reinstate such permit by filing a written petition within sixty (60) calendar days following the effective date of this Subdivision Ordinance. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:
 - a. As of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:
 - i. A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;



- ii. An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2));
 - iii. Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - iv. Fiscal security was posted with the City to guarantee performance of obligations required under this Subdivision Ordinance, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved initial permit; or
 - v. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid to the City.
 - b. After two (2) years prior to the adoption date of this Subdivision Ordinance, but before the expiration date specified in Section 9.03(m)(2), one of the following events had occurred:
 - i. A final permit was approved for all or part of the land subject to the approved application, and remained in effect for such land on such expiration date; or
 - ii. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.
- (4) Commission Action on Reinstatement. The Commission may take one of the following actions:
- a. Reinstatement the expired initial permit without an expiration date, if it finds that the applicant has met any one of the criteria listed in Section 9.03(m)(3)a.;
 - b. Reinstatement the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any one of the criteria listed in Section 9.03(m)(3)b., subject to such expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Commission may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
 - c. Deny the reinstatement petition, if it finds that the applicant has failed to meet any of the criteria in Section 9.03(m)(3); or
 - d. Reinstatement the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in Section 9.03(m)(3)b.ii



and the pending application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.



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